

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SESSION LAW 2021-95
SENATE BILL 146**

AN ACT TO ESTABLISH STANDARDS FOR THE PRACTICE OF TELEDENTISTRY, TO AUTHORIZE PROPERLY TRAINED DENTAL HYGIENISTS TO ADMINISTER LOCAL DENTAL ANESTHETICS UNDER DIRECT SUPERVISION OF A LICENSED DENTIST, TO ALLOW CERTAIN DENTAL HYGIENISTS GREATER FLEXIBILITY TO PRACTICE WITHOUT SUPERVISION OF A LICENSED DENTIST, TO ALLOW LICENSURE BY CREDENTIAL FOR CERTAIN INSTRUCTORS, AND TO ENABLE REPRESENTATIVES OF THE ECU SCHOOL OF DENTAL MEDICINE TO SERVE ON THE NC CARING DENTAL PROFESSIONALS BOARD.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 90-29(b) reads as rewritten:

"(b) A person shall be deemed to be practicing dentistry in this State who does, undertakes or attempts to do, or claims the ability to do any one or more of the following acts or things which, for the purposes of this Article, constitute the practice of dentistry:

...

(6) Administers an anesthetic of any kind in the treatment of dental or oral diseases or physical conditions, or in preparation for or incident to any operation within the oral cavity; provided, however, that this subsection shall not apply to a lawfully qualified nurse anesthetist who administers such anesthetic under the supervision and direction of a licensed dentist or ~~physician; physician~~, or to a registered dental hygienist qualified to administer local anesthetics.

...

(11) Owns, manages, supervises, controls or conducts, either ~~himself or himself~~, by and through another person or other persons, or by use of any electronic or other digital means, any enterprise wherein any one or more of the acts or practices set forth in subdivisions (1) through (10) above are done, attempted to be done, or represented to be ~~done; done~~.

...."

SECTION 1.(b) Article 2 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-30.2. Teledentistry practice; definitions; requirements.

(a) The following definitions apply in this section:

- (1) Authorized person. – An appropriate person with legal authority to make the health care treatment decision for a patient.
- (2) Licensed dental hygienist. – An individual who holds a valid license to practice dental hygiene duly issued by the North Carolina Board of Dental Examiners in accordance with Article 16 of this Chapter.
- (3) Licensed dentist. – A person who holds a valid license to practice dentistry duly issued by the North Carolina Board of Dental Examiners in accordance with this Article.



- (4) Licensee. – A person who is a licensed dental hygienist or licensed dentist in this State.
- (5) Practice of teledentistry. – The provision of dental services by use of any electronic or other digital means, as authorized in G.S. 90-29(b)(11) and provided for in subsection (b) of this section.
- (6) Supervision. – Acts are deemed to be under the supervision of a licensed dentist when performed pursuant to the licensed dentist's order, control, and approval and do not require the physical presence of the licensed dentist.

(b) Practice of Teledentistry Requirements. – For the purposes of this Article, the practice of teledentistry includes any of the following:

- (1) Delivery of service. – Teledentistry services may be delivered by a licensed dentist or a licensed dental hygienist who is under the supervision of a licensed dentist. Licensees shall comply with all rules of professional conduct and applicable State and federal law relevant to licensed dentists and licensed dental hygienists when delivering teledentistry services.
- (2) Encounter location. – The location of service is determined at the time teledentistry services are initiated, as follows:
 - a. When the service is between patient and provider, the location of the patient is the originating site, and the location of the provider is the distant site.
 - b. When the service is between providers, conducted for the purposes of consultation, the location of the provider initiating the consult is the originating site, and the location of the consulting provider is the distant site.
- (3) Data. – Any licensee, patient, or authorized person may transmit data, electronic images, and related information as appropriate to provide teledentistry services to a patient.
- (4) Patient care. – A licensee using teledentistry services in the provision of dental services to a patient shall take appropriate steps to establish the licensee-patient relationship, conduct all appropriate evaluations and history of the patient, and provide access to comprehensive dental care where clinically indicated.
- (5) Evaluations. – Notwithstanding any provision of law to the contrary, patient evaluations may be conducted by a licensed dentist using teledentistry modalities.

(c) Informed Consent. – A licensee who provides or facilitates the use of teledentistry shall ensure that the informed consent of the patient or authorized person is obtained before services are provided through teledentistry. All informed consents shall be included in the patient's dental records. To obtain an informed consent, the licensee shall do all of the following:

- (1) Confirm the identity of the requesting patient.
- (2) Verify and authenticate the patient's health history.
- (3) Disclose the licensee's identity, applicable credentials, and contact information, including a current phone number and mailing address of the licensee's practice.
- (4) Obtain an appropriate informed consent from the requesting patient after disclosures have been made regarding the delivery models and treatment methods and limitations, including any special informed consents regarding the use of teledentistry services.
- (5) In addition to other areas that must be discussed in traditional in-person dental encounters with a patient before treatment, the informed consent shall inform

the patient or authorized person and document acknowledgment of the risk and limitations of all of the following:

- a. The use of electronic communications in the provision of care.
 - b. The potential for breach of confidentiality, or inadvertent access of protected health information using electronic and digital communication in the use of teledentistry.
 - c. The types of activities permitted using teledentistry services.
- (6) Inform the patient or authorized person that it is the role of the licensed dentist to determine whether the condition being diagnosed or treated is appropriate for a teledentistry encounter.
 - (7) Obtain written consent from the patient or authorized person to forward patient-identifiable information to a third party.
 - (8) Provide the patient and authorized person with contact information for the North Carolina State Board of Dental Examiners and a description of, or link to, the patient complaint process.

(d) Confidentiality. – The licensee shall ensure that any electronic and digital communication used in the practice of teledentistry is secure to maintain confidentiality of the patient's medical information as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all other applicable laws and administrative regulations. Patients receiving services through teledentistry under this section are entitled to protection of their medical information no less stringent than the requirements that apply to patients receiving in-person services.

(e) Patient Dental Records. – Records of teledentistry services provided to a patient or authorized person shall be held to the same record retention standards as records of traditional in-person dental encounters. A patient record established during the use of teledentistry services shall be accessible to both the licensee and the patient or authorized person, consistent with all established State and federal laws and regulations governing patient health care records. In addition to other areas that must be included in traditional in-person dental encounters, the licensee shall document or record in the patient dental record all of the following:

- (1) The patient's presenting problem.
- (2) The patient's diagnosis.
- (3) The patient's treatment plan.
- (4) A description of all services that were provided through teledentistry.

(f) Prescribing. – The indication, appropriateness, and safety considerations for each prescription for medication, laboratory services, or dental laboratory services provided through the use of teledentistry shall be evaluated by the licensed dentist in accordance with applicable law and current standards of care, including those for appropriate documentation. A licensed dentist's use of teledentistry carries the same professional accountability as a prescription issued in connection with an in-person encounter. A licensed dentist who prescribes any type of analgesic or pain medication as part of the provision of teledentistry services shall comply with all applicable North Carolina Controlled Substance Reporting System requirements."

SECTION 1.(c) G.S. 90-41 reads as rewritten:

"§ 90-41. Disciplinary action.

(a) The North Carolina State Board of Dental Examiners shall have the power and authority to (i) Refuse to issue a license to practice dentistry; (ii) Refuse to issue a certificate of renewal of a license to practice dentistry; (iii) Revoke or suspend a license to practice dentistry; and (iv) Invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper;

in any instance or instances in which the Board is satisfied that such applicant or licensee:

...

- (25) Has distributed or caused to be distributed any intoxicant, drug or narcotic for any other than a lawful purpose; ~~or~~
- (26) Has engaged in any unprofessional conduct as the same may be, from time to time, defined by the rules and regulations of the ~~Board~~ Board;
- (27) Has allowed fee-splitting for the use of teledentistry services; or
- (28) Has limited, in any way, a patient's right or ability to raise grievances or file complaints with any appropriate oversight body, including the North Carolina State Board of Dental Examiners, the North Carolina Department of Justice, Division of Medicaid Investigations, and the North Carolina Department of Health and Human Services, Division of Health Benefits, Office of Compliance and Program Integrity.

...."

SECTION 2.(a) G.S. 90-221(a) reads as rewritten:

"(a) "Dental hygiene" as used in this Article shall mean the performance of the following functions: Complete oral prophylaxis, application of preventive agents to oral structures, exposure and processing of radiographs, administration of medicaments prescribed by a licensed dentist, preparation of diagnostic aids, and written records of oral conditions for interpretation by the dentist, together with such other and further functions as may be permitted by rules and regulations of the Board not inconsistent herewith. Notwithstanding the provisions of G.S. 90-29(b)(6), dental hygiene shall include the administration of local anesthetics by infiltration and block techniques by dental hygienists certified pursuant to G.S. 90-225.2, if a dental hygienist conducts administration of local anesthetics under the direct supervision of a dentist licensed to practice dentistry under Article 2 of this Chapter."

SECTION 2.(b) G.S. 90-221 is amended by adding a new subsection to read:

"(b1) "Direct supervision" as used in this Article shall mean that acts are deemed to be under required supervision only when performed in a locale where the supervising licensed dentist is physically present and shall not include supervision under G.S. 90-233(a) and (a1)."

SECTION 2.(c) Article 16 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-225.2. Current hygiene students in CODA-approved curriculum programs.

Programs required for dental hygienists licensed in this State to qualify to administer local anesthetics pursuant to G.S. 90-221(a) shall be taught using lecture and laboratory or clinical formats at the University of North Carolina Adams School of Dentistry, the East Carolina University School of Dental Medicine, or a dental hygiene program accredited by the Commission on Dental Accreditation (CODA), or a similar organization approved by the United States Department of Education. The training program will include, at a minimum, a 30-hour session composed of 16 didactic hours and 14 clinical hours. Clinical instruction shall be provided by a dentist holding a DDS or DMD degree, and the faculty-to-student ratio shall be no greater than 1:5 for the laboratory and clinical instruction. Courses must be taught to a minimum score of eighty percent (80%) in the parenteral administration of local anesthesia, and successful students shall be awarded a certificate of completion."

SECTION 2.(d) Article 16 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-225.3. Requirements to administer local anesthetics for licensed dental hygienists; reciprocity.

(a) The Board may approve a dental hygienist licensed in this State or any other state or territory to provide local anesthesia upon the dental hygienist meeting all of the following criteria:

- (1) Produces satisfactory evidence of the required education, training, and clinical qualifications to provide local anesthesia.

- (2) Has been practicing dental hygiene, as defined in G.S. 90-221, under the supervision of a licensed dentist for a minimum of two years immediately preceding the date of the application.
- (3) Has successfully completed a course of study on local anesthetics offered through a school or college approved by the United States Department of Education or a Board-approved continuing education provider that includes all of the following:
 - a. A minimum of 16 lecture hours on pharmacology, physiology, equipment, block and infiltration techniques, legal issues, and medical emergencies, including systemic complications.
 - b. A minimum of eight clinical hours of instruction and experience in administering local anesthesia injections.
 - c. Completion of at least 12 block and 12 infiltration injections under the direct supervision of a licensed dentist who must certify the applicant's competency.

(b) If an applicant cannot satisfy the requirements as set forth in subsection (a) of this section, the Board may require the licensed dentist hygienist to complete all or parts of the requirements specified in subsection (a) of this section before the applicant can be qualified to administer intraoral, local dental anesthetics in this State.

(c) Dental hygienists who administer local anesthetics must maintain current CPR training and annually complete two hours of approved continuing education which shall include a review of local anesthetic technique, contraindications, systemic complications, medical emergencies related to local anesthesia, and a general overview of dental office emergencies. These hours may be among those chosen to satisfy the hours of continuing education otherwise required of licensed dental hygienists in this Article."

SECTION 3. G.S. 90-233 reads as rewritten:

"§ 90-233. Practice of dental hygiene.

(a) A dental hygienist may practice only under the supervision of one or more licensed dentists. This subsection shall be deemed to be complied with in the case of dental hygienists employed by or under contract with a local health ~~department or department~~, a State government dental public health ~~program-program~~, or a federally qualified health center, and especially trained by the ~~Dental-Oral Health Section of the Department of Health and Human Services~~ as public health hygienists, while performing their duties for the persons officially served by the local health ~~department or department~~, State government ~~program-program~~, or federally qualified ~~health center~~ under the direction of a duly licensed dentist employed by that program or by the ~~Dental-Oral Health Section of the Department of Health and Human Services~~.

(a1) A dental hygienist who has three years of experience in clinical dental hygiene or a minimum of 2,000 hours performing primarily prophylaxis or periodontal debridement under the supervision of a licensed dentist, who completes annual CPR certification, who completes six hours each year of Board-approved continuing education in medical emergencies in addition to the requirements of G.S. 90-225.1, and who is designated by the employing dentist as being capable of performing clinical hygiene procedures without the direct supervision of the dentist, may perform one or more dental hygiene functions as described in G.S. 90-221(a) under the direction of a dentist based on a written standing order, rather than an in-person evaluation by the dentist and without a licensed dentist being physically present if all of the following conditions are met:

- (1) A licensed dentist directs in writing the hygienist to perform the dental hygiene functions.
- (2) ~~The licensed dentist has personally conducted an evaluation of the patient which shall include a complete oral examination of the patient, a thorough~~

~~analysis of the patient's health history, a diagnosis of the patient's condition, and a specific written plan for treatment.~~

- (3) The dental hygiene functions directed to be performed in accordance with this subsection ~~shall be~~ are conducted within ~~120~~ 270 days of the dentist's ~~evaluation.~~ standing order.
- (4) The services are performed in nursing homes; rest homes; long-term care facilities; schools; rural and community clinics operated by Board-approved nonprofits; rural and community clinics operated by federal, State, county, or local governments; federally qualified health centers; and any other facilities identified by the Office of Rural Health and approved by the Board as serving dental access shortage areas.
- (5) A licensed dentist is available to provide appropriate follow-up care as necessary.

...
(a6) Dental hygienists performing procedures in accordance with subsection (a1) of this section may supervise a Dental Assistant who assists the hygienist in clinical procedures and is classified as a Dental Assistant II or permitted to perform functions of a Dental Assistant II pursuant to 21 NCAC 16H .0104(a) or (b).

...."
SECTION 4. G.S. 90-36 reads as rewritten:
"§ 90-36. Licensing practitioners of other states.

...
(b1) The North Carolina State Board of Dental Examiners shall issue a license by credentials to any dentist who applies for a license by credentials, who possesses good moral character, and who meets either of the following criteria:

- (1) Holds a current Instructor's License pursuant to G.S. 90-29.5.
- (2) Has graduated with a general dental degree from any school or college and has graduated from an advanced dental education program with either a certificate or a degree from a school or college accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Board.

Any applicant who applies for a license by credentials in accordance with subdivision (b1)(2) of this section shall meet the requirements of subsections (c) and (d) of this section and shall have passed satisfactory examinations of proficiency in the knowledge and practice of dentistry as set out in subsection (a) of this section.

...."
SECTION 5. G.S. 90-48.2 reads as rewritten:
"§ 90-48.2. Board agreements with special peer review organizations for impaired dentists.

(a) The State Board of Dental Examiners may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes, enter into agreements with special impaired dentist peer review organizations formed by the North Carolina Dental Society. The organizations shall be made up of Dental Society members designated by the Society, the Board, ~~and the Dental School of the University of North Carolina.~~ Carolina Adams School of Dentistry, and the East Carolina University School of Dental Medicine. Peer review activities to be covered by such agreements shall include investigation, review and evaluation of records, reports, complaints, litigation, and other information about the practices and practice patterns of dentists licensed by the Board, as such matters may relate to impaired dentists. Special impaired dentist peer review organizations may include a statewide supervisory committee and various regional and local components or subgroups. The statewide supervisory committee shall consist of representatives from the North Carolina Dental Society, ~~the UNC University of North Carolina Adams School of Dentistry,~~ the East Carolina University School of Dental Medicine, and the

Board. When the statewide supervisory committee considers activities and programs that relate to impaired dental hygienists pursuant to G.S. 90-48.3, its membership shall be expanded to include two dental hygienists appointed upon the recommendation of the dental hygienist member of the Board.

...."

SECTION 6. The North Carolina State Board of Dental Examiners may adopt temporary rules to implement the provisions of this act.

SECTION 7. Section 2 of this act becomes effective October 1, 2021, and applies to licenses granted or renewed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of July, 2021.

s/ Mark Robinson
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 12:40 p.m. this 23rd day of July, 2021